

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5409 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

IVA M. CONNELLY
(Claimant)
S.S.A. No.

WESTERN UNION
TELEGRAPH COMPANY
(Employer-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-253

FORMERLY BENEFIT DECISION No. 5409
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The above-named employer on March 24, 1949, appealed from the decision of a Referee (S-9242) which held that the claimant had voluntarily left her most recent work but with good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act /now section 1256 of the Unemployment Insurance Code/.

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant was last employed as an adjustment clerk by the above-named employer for approximately one year at a terminating wage of one dollar per hour. She resigned from this work on March 16, 1948, under circumstances hereinafter set forth.

On December 15, 1948, the claimant registered for work and filed a claim for benefits in the Chico office of the Department of Employment. The employer protested and on December 24, 1948, the Department issued a determination which held that the claimant had not left her

most recent work voluntarily without good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act /now section 1256 of the code/. Thereupon, the employer appealed to a Referee who affirmed the determination.

During the latter part of her period of employment the claimant's attendance at work became "irregular" because of poor health. On January 20, 1948, she again informed the employer that she was sick and thereafter the claimant did not return to her place of employment until March 16, 1948. The claimant was a union member and the collective bargaining agreement between this labor organization and the employer provides that employees may take sick leave up to two years. During such time the employer carries a worker as "absent-sick" on a so-called "service pay-roll". Accordingly, the claimant was so listed without pay on this company record during the period from January 20, 1948, to March 16, 1948. On the latter date the claimant reported to the office of her supervisor although she was still ill and did not know when she could return to work. After a thorough discussion of her health problem with this individual the claimant indicated an intention to resign. During the conversation her supervisor agreed that under the circumstances the claimant's termination "might be the best thing to do". The claimant did not ask to continue her leave of absence nor did the employer offer to do so and she submitted her resignation following the discussion on March 16, 1948.

The aforesaid supervisor again saw the claimant in June 1948, and testified that in his opinion the claimant's condition had not yet improved at that time to the point where the resumption of her duties with the company would have been advisable.

REASON FOR DECISION

The issue of what constitutes good cause for leaving work must be determined by the particular facts of each case and no general rule can therefore be made uniformly applicable to all cases.

In the instant appeal it is established that a worker in the employ of the appellant may take a leave

of absence for health reasons up to two years but in our opinion the claimant herein had done everything that should reasonably be expected of her to preserve her position at the time of her resignation on March 16, 1948. After two months of leave she continued to be in poor health, and when she resigned the claimant could not anticipate when, if ever, she would again be able to resume her duties. In the face of this situation the employer did not offer to continue the claimant's leave on March 16, 1948, but after a discussion of her health problem agreed with the claimant's decision to quit at that time. In this respect the evidence before us justifies a conclusion that the conversation on March 16, 1948, resulted in a mutual agreement between the claimant and her employer that under the circumstances no useful purpose would be served by the indefinite extension of her then existing leave of absence. Under these facts, we hold that the claimant's abandonment of the employer-employee relationship on March 16, 1948, was with good cause within the meaning of Section 58(a)(1) of the Act /now section 1256 of the code/, and that she is not subject to disqualification for benefits for such leaving.

DECISION

The decision of the Referee is affirmed. Benefits are allowed provided the claimant is otherwise eligible.

Sacramento, California, June 16, 1949.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

PETER E. MITCHELL

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5409 is hereby designated as Precedent Decision No. P-B-253.

Sacramento, California, March 9, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT